

Customer No. 22,852
Attorney Docket No. 09013.0006-00000

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re U.S. Patent No.: 7,372,941)
Issue Date: May 13, 2008) Group Art Unit: 2882
Igor IVANISEVIC et al.) Examiner: Allen C. Ho
Application No.: 10/635,113) Confirmation No.: 2064
Filed: August 6, 2003)
For: SYSTEM AND METHOD FOR)
MATCHING DIFFRACTION PATTERNS)

**Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450**

Sir:

DETERMINATION OF PATENT TERM ADJUSTMENT - POST GRANT

The Office issued the subject U.S. Patent No. 7,372,941 ("the '941 patent") with a patent term adjustment of 494 days. The Application was filed on August 6, 2003. A Restriction Requirement dated March 1, 2006, was the first official action on the application, creating a U.S. Patent and Trademark Office (USPTO) delay of 511 days. A response to the March 1, 2006, Restriction Requirement was filed on March 30, 2006. A subsequent non-final Office Action was mailed on April 14, 2006. A response to the April 14, 2006, Office Action was filed on November 14, 2006, creating an Applicant delay of 62 days. Another non-final Office Action was mailed on November 22, 2006. A response to the November 22, 2006, Office Action was filed on April 28, 2007, creating an Applicant delay of 60 days. A final Office Action was filed on August 5, 2007, and a response was filed on November 6, 2007. A supplemental response was filed on December 6, 2007, creating an Applicant delay of 60 days. The total USPTO delay is 511 days.

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delay of 30 days. Therefore, there was a total delay of 152 days on the part of the Applicant (62 days + 60 days + 30 days).

The patent application was allowed on January 11, 2008, and the issue fee was paid on April 10, 2008. The '941 patent issued on May 13, 2008. The three year pendency date for determination of patent term adjustment is August 6, 2006, thereby creating a USPTO delay of 646 days.

In view of the decision of the Federal District Court for the District of Columbia in *Wyeth v. Dudas* on September 30, 2008, patentee submits it is entitled to a total patent term adjustment of 1005 days, which is the sum of 646 days of patent term adjustment due to exceeding three year pendency and 511 days due to US PTO delay in prosecution before the three-year deadline after filing, minus the Applicant delay of 152 days.

If there are any fees due in connection with the filing of this request, please charge such fees to our Deposit Account No. 06-0916.

Respectfully submitted,

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GARRETT & DUNNER, L.L.P.

Dated: November 7, 2008

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